

SENATE BILL 120

By Briggs

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 14, Part 1, relative to the Organized Retail
Crime Prevention Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 14, Part 1, is amended by adding the following language as a new section:

(a) This section shall be known and may be cited as the "Organized Retail Crime Prevention Act."

(b) For purposes of this section, "stored value card" means any card, gift card, instrument, or device issued with or without fee for the use of the cardholder to obtain money, goods, services, or anything else of value. Stored value cards include, but are not limited to, debit cards issued for use as a stored value card or gift card, and an account identification number or symbol used to identify a stored value card.

(c) A person commits the offense of organized retail crime when the person:

(1) Works with one (1) or more persons to commit theft of any merchandise with a value exceeding one thousand dollars (\$1,000) aggregated over a ninety-day period with the intent to sell that property for monetary or other gain, or to fraudulently return the merchandise to a retail merchant; or

(2) Receives, possesses, or purchases any merchandise or stored value cards obtained from a fraudulent return with the knowledge that the property was obtained in violation of § 39-14-103 or § 39-14-146.

(d) In a prosecution under subdivision (c)(2), the trier of fact may infer from the defendant's receipt, possession, or purchase of ten (10) or more stored value cards in a

fourteen-day period from the same individual or merchant that the property was obtained in violation of § 39-14-103 or § 39-14-146.

(e) A violation of this section shall be punished as theft pursuant to § 39-14-105.

(f) A violation of this section shall be punished one classification higher than provided in § 39-14-105 if the defendant organized, supervised, financed, or managed activity of one (1) or more other persons in furtherance of the offense prescribed by this section.

(g) Any interest in property acquired or maintained in violation of this section shall be subject to forfeiture as provided by title 39, chapter 11, part 7.

(h) Any sale or purchase of stored value cards by persons or merchants other than the original issuer or the issuer's authorized agent shall be subject to the recording procedures provided by title 45, chapter 6, part 2.

(i) A stored value card purchased by anyone other than the original issuer, the issuer's authorized agent, or the original purchaser shall be held for a period of five (5) business days or seven (7) calendar days, whichever is shorter, prior to resale or use. This subsection shall apply only to a person who purchases more than ten (10) stored value cards in a ninety-day period.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.